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## Statement of

**The Honorable Mick Cornett  
Mayor of Oklahoma City**

**on behalf of**

**The United States Conference of Mayors**

**before**

**The United States House of Representatives  
Committee on Government Reform**

**regarding**

**The Unfunded Mandates Reform Act of 1995 (UMRA)**

**Rayburn House Office Building, Room 2154  
Washington, D.C.**

**Tuesday, March 8, 2005  
2:00 p.m.**

Thank you Mr. Chairman. First let me commend you and all of the members of this committee for inviting us to participate in this important hearing. I am Mick Cornett, Mayor of Oklahoma City and a member of the U.S. Conference of Mayors Urban Economic Policy Committee. I am pleased to appear today to offer comments on behalf of the nation's mayors on the Unfunded Mandates Reform Act of 1995.

Today marks the ten-year anniversary of a rally held on the steps of the Capitol, where mayors and county leaders teamed up with the key sponsors of UMRA to urge final passage. After several years of educating our citizens and the press about the adverse impact of unfunded mandates, we were finally able to convince the overwhelming majority of members in both chambers to support the legislation. Soon after the rally the bill was signed into law on March 22, 1995. Reflecting back on the time leading up to this event, there is no doubt why this legislation became a top legislative priority of just about every city, county and state in the nation. The number and the cost of unfunded mandates reached a boiling point with mayors a long time ago. Each time a new unfunded mandate is imposed on local governments, it means we have to make the tough choices of raising taxes or cutting back on services.

Mr. Chairman, it's easy to understand why so many in Washington get hooked on passing mandates. If you have a bright idea that you can take credit for, and then force someone else to pay for it, you have the best of both worlds. You can face the voters and tell them about the problems you solved while we're forced to explain why we've increased taxes or cut back on services.

While mayors and other state and local leaders acknowledge the good intentions behind many mandates, we are almost unanimous in our belief that federal mandates should be supported by federal funds. Congress and federal agencies must realize that local governments are not equipped to fund an infinite number of mandates, and at the same time adequately fund education, public safety, homeland security, transportation and other critical public services that we're expected to provide.

The message I want to leave with members of this committee is that mayors wholeheartedly support UMRA. We believe it is serving a very valuable purpose. It is notifying members about mandates included in proposed legislation, and most importantly it is holding members more accountable for imposing new mandates on state and local governments. Now, I don't want to leave you with the impression that the law is perfect. It is not. There are loopholes in the act that are allowing mandates to move through the legislative process unchecked. And the federal government is finding more ways to shift costs to state and local governments. We are in favor of strengthening UMRA to close up these loopholes and curtail these federal cost shifts.

Mayors have long supported strong legislation in this area. In 1993, the Conference and other national groups representing state and local governments joined forces and developed a national strategy to stop unfunded mandates. We first educated the American people and the press to help them better understand that unfunded mandates shift the costs of federal programs to state and local governments. We told them that unfunded federal mandates drive up their state and local taxes and undermine our ability at the local level to provide critical public services. As

a result of our efforts, a massive grassroots campaign evolved which generated enormous support for our efforts and led to the passage of UMRA.

Mr. Chairman I have been informed by Conference staff of the critical leadership role you played in the passage of UMRA. First, as an elected county executive from Fairfax County, Virginia, you were one of the key leaders of the National Association of Counties Unfunded Mandates Task Force which was a powerful force in generating local support. Second, I am told as a newly elected freshman member of Congress in 1995, you cosponsored UMRA and helped provide leadership in the House to ensure it's passage. On behalf of the nation's mayors I not only commend you for your past leadership but for your continuous commitment and support for state and local governments in the fight against unfunded mandates.

Again, thank you for holding this hearing. After ten years, it is a good time for Congress to examine UMRA to see if it's achieving its legislative goal. While we believe the law has made it a big difference in keeping members informed and, to some degree, in reducing the number of mandates, as I stated earlier, there are still loopholes that allow Congress and federal agencies to continue shifting the cost of federal actions to state and local governments. Recent studies conducted by the Government Accounting Office, Office of Management and Budget and the National Conference of State Legislatures all support this conclusion.

### **Positive Effects of UMRA**

There is no question that UMRA has made a huge difference in making members of Congress, as well as federal departments and agencies, aware of the impact of unfunded mandates on state and local governments. Having a legislative and administrative procedure in place that requires the Congressional Budget Office and the Office of Management and Budget to examine new legislative and regulatory proposals, and notify members of Congress when there is a mandate that is likely to impose excessive cost on state and local governments, is a significant achievement. The information reported by these agencies is also available to the public and the press. As a result, all members of Congress know we will be able to hold them accountable for their vote on bills containing mandates.

The GAO report concluded that there is evidence that UMRA has had a discouraging effect on the enactment of unfunded mandates and it may have helped reduce the costs of some mandates. In examining 377 statutes approved during 2001 and 2002, the report found that only 5 contained costly mandates, and all of these were mandates imposed on the private sector. In comparison the report states that between 1996 and 2000, the Congressional Budget Office identified a total of 18 costly mandates that were enacted. Two were imposed on state and local governments and 16 on the private sector. In its conclusion, the report states that since 1996 only 3 statutes have been enacted that impose excessive cost on state and local governments.

### **UMRA's Flaws**

Mr. Chairman, while mayors across the nation are pleased to have UMRA in place, we are still concerned about the rising costs of mandates and other federal actions not covered by the

law. We believe the time has come to consider changes in the statute that will close the loopholes and expand its scope to cover other federal actions that continue to shift huge financial burdens to state and local governments. These loopholes and federal actions are eroding our limited local resources and making it more difficult for us to provide the services that our citizens expect. Every dollar we're forced to spend on a federal mandate is one less dollar available at the local level to fight crime, improve education, expand transportation and modernize our aging infrastructure.

Under UMRA the Congressional Budget is not required to conduct an automatic review of mandates contained in appropriation bills or mandates added to a statute after CBO's review. In 2001 and 2002, seven bills containing mandates were enacted without a CBO review because they were either included in appropriations bills or in authorizing bills not reported by authorizing committees. Another three statutes were enacted in 2002 that contained mandates not reviewed by CBO prior to enactment because they were added after CBO's review.

Also, statutes that provide grant assistance to state and local governments are not covered by UMRA although in some instances they may include significant financial impacts on state and local governments. The No Child Left Behind Act, the Homeland Security Act and the Help America Vote Act were all cited as examples of statutes that provide grant assistance but impose various costly requirements on state and local governments.

### **Examples of How Unfunded Mandates Affect Cities**

Let me provide you a few examples of some costly mandates we're faced with in Oklahoma City. However, before I do, I want to point out that as the manager of a nationally acclaimed, publicly owned water supply system, Oklahoma City supports public health protection based on sound science. We support efforts to improve drinking water quality for all citizens.

In our efforts to provide safe water, citizens often do not perceive the benefits of our capital improvements, only the added burden of higher utility bills. Unfortunately, new regulations do not come with the funding support necessary to implement them. Consequently local communities are facing millions of dollars worth of cost increases per year just to keep up with federal mandates. When the costs of funding new federal mandates are included in our utility rates, the economic effects are much greater on low- and moderate-income consumers. While Oklahoma City is prospering, 16 percent of our citizens remain at or below the poverty level. This is just one of many critical reasons why mayors believe that when the federal government decides to place new responsibilities on local communities, it should fund the cost of implementing these decisions.

Some of the more costly mandates we're dealing with back home include:

**Toxicity Reduction Evaluation Process** – For over 14 years, Oklahoma City, along with many other large communities, has been required to perform expensive testing, monitoring and public education programs to encourage citizens to lessen their use of pesticides and to help keep pesticides from entering the local sanitary sewer system. Despite all these years of testing,

monitoring and public education efforts, pesticides remain in the sanitary sewer system flows reaching our wastewater treatment plants. There are many reasons why the wastewater contains pesticides, and none of these reasons are under the control of the local community. Yet, the local community is responsible for eliminating pesticides but powerless to regulate pesticide use nationally. Should the federal government desire to reduce pesticide availability or use, it should do so itself. Should the federal government desire to eliminate pesticides from entering our national waterways, it should also do so itself. However, it is unfair to expect local communities to bear the high costs of this federal initiative.

**Drinking Water Regulations** – Oklahoma City has a proud record of providing outstanding, safe drinking water to its citizens, and has been nationally recognized for the excellent taste and quality of its drinking water. Yet, in 1996, when Congress passed additional amendments to the Safe Drinking Water Act, the process the EPA uses to develop drinking water standards accelerated but no new federal money was sent to communities to assist in implementing these new regulations.

One example of the EPA requirement for water suppliers is the reduction of total organic carbon of their water based upon the percentage of the water's original content. Although Oklahoma City is blessed with one of the best raw water supplies in the nation, it still must make substantial changes to its treatment processes to remove an additional 25 to 35 percent of total organic carbon. Oklahoma City is now constructing over \$10 million dollars in improvements to its water treatment plants and will require an additional \$1.5 million dollars annually in operating costs just to meet the newest regulations for total organic carbon removal.

**Uniformity/centralization of federal security requirements for municipally operated utilities through Homeland Security Office** – We are receiving directions from separate federal agencies with conflicting requirements regarding operations, management, capital improvements, vulnerability assessments, emergency response planning and access to information for our utility facilities. The agencies involved include the EPA, the U.S. Department of the Interior, Bureau of Reclamation and the Federal Energy Regulatory Commission. Further, by protecting the information they receive, these multiple federal agencies are not sharing information regarding their independent efforts on behalf of the facilities we rely on for water supply to our community.

We believe that our security efforts would be significantly enhanced, and much more efficiently and effectively performed, if one federal agency provided oversight of the federal facilities we rely on for water supply (i.e. McGee Creek Reservoir) and directions for performance of vulnerability assessments and emergency planning and response. Further, estimates of the security improvements needed to meet new standards exceed \$10 million and will require coordination and new financial and personnel support from many local, state and federal agencies. Centralized federal agency support would significantly enhance all our efforts.

I also want to share with you some of the other unfunded mandates that other cities are concerned with:

**Combined Sewer Overflow Control Policy** – Probably one of the biggest environmental unfunded mandates is the 1994 Combined Sewer Overflow (CSO) Control Policy. This policy, while admirable and with great public benefit, is a tremendous burden on local governments. EPA estimated in their 2000 Clean Watersheds Needs Survey that Combined Sewer Overflow Correction would cost approximately \$50.6 billion.

Let me share with you what that means for individual cities:

- In Holyoke, Massachusetts, a former industrial city of about 40,000 people, the city has a sewer system that was created over 125 years ago. Their median income is \$32,000. Below the Holyoke Dam, there are more than a hundred combined sewer overflows. The federal government has been pushing eight western Massachusetts communities, including Holyoke, for the past decade to eliminate these CSOs at a collective cost of more than a quarter of a billion dollars. The City of Springfield is facing a total CSO cost of \$110 to \$140 million. The City of Chicopee is facing a CSO cost of \$258 million and the City of Hartford will need over \$100 million in funds. Holyoke's estimated cost is between \$56 and \$78 million. Officials estimate that it will increase every sewer-using customer cost in Holyoke from \$200 to \$833 (417%) per year to pay this bill.
- The city of Akron, OH is facing a total CSO cost of \$384 million.
- Saginaw, Michigan had 36 CSOs which discharged nearly 3 billion gallons of combined sewage each year into the Saginaw River. As of 2001, Saginaw has spent nearly \$100 million on capital improvements. These expenditures have resulted in the elimination of 20 out of the 36 CSOs. As you can see, they still have a ways to go.

What has sometimes been difficult to determine is how to separate the cost for complying with the CSO mandate and replacing the aging and crumbling infrastructure that plagues many of our communities. However, the two issues are clearly linked to one another. The U.S. Environmental Protection Agency (EPA) in its Gap Analysis, released in 2002, estimates the capital needed for wastewater infrastructure over the next twenty years will range from \$331 billion to \$450 billion.

In 1977, federal funding peaked for capital wastewater projects at \$14.1 billion which accounted for more than 60% of annual expenditures. At that time local and state contributed approximately \$8 billion. Currently local and some state funding accounts for 90% of all capital expenditures for wastewater infrastructure. And while the federal government has contributed only \$1.3 billion in the form of state loans (and that dollar figure has been decreasing over the past couple of years), EPA estimates that local and state governments spend over \$10 billion each year just on capital expenditures for wastewater.

Please note that this is for wastewater only. The estimated gap for drinking water is from \$154 billion to \$446 billion, and this does not take into account the costs for compliance with

drinking water standards. We are currently trying to determine that cost as well. Also, you should note that these are just some examples of the environmental costs incurred by local governments.

**Individuals with Disabilities Education Act** – In the reauthorization of the Individuals with Disabilities Education Act (IDEA) in 2004 a commitment was made to create a glide path to fully fund IDEA by 2011. A total of 97 Senators supported this language and it became part of the reauthorization. Last fiscal year the Omnibus Appropriations Act increased funding for this program by \$1 billion.

However, if one were to examine the current level of funding and then add in the President's proposed increase for FY 06, appropriations for IDEA would be \$3.6 billion below what the reauthorization calls for in the "glide path." And if we were to compare what full funding should be (\$22.6 billion) to the current funding level of \$11.1 billion, one would find that full funding was over \$11 billion short of the goal.

This is definitely an under-funded mandate. In the original legislation, the Education for All Handicapped Act (P.L. 94-142), the Act stated that the funding goal for the Federal government would be up to 40% of the national average cost to educate a child. It was written as if funding would be a partnership between the federal, state and local governments to provide a free and appropriate education for every special needs child.

**No Child Left Behind** – The No Child Left Behind Act (P.L. 107-110), which was the name given to the reauthorization of the Elementary and Secondary Education Act in 2002, established a new set of requirements and expectations for states and local education agencies. As a result of these requirements the Act is currently under funded. The costs being incurred by states and local school systems to implement No Child Left Behind (NCLB) and be in compliance with the Act are very significant in a variety of areas including administration, increased salaries for higher qualified teachers, testing costs, remediation, transportation and other items. Even though the legislation provides some funding, it does not fully cover all the costs. At the present time, the appropriation for NCLB is \$9 billion less than the authorized level for the Act.

**Medicaid Reimbursement for School Children** - From the cities and local school system perspective, there is a double standard in Medicaid reimbursement. We feel that schools are placed on a different playing field than medical clinics. In the end this causes cities to pick up the full cost of the medical needs of Medicaid-eligible children.

There is almost a complete failure by the Federal government to cover medical eligible services for Medicaid eligible school children. The practice has been that such costs as physical and occupational therapy and medical equipment (wheelchairs) are not being covered by Medicaid for these school children. This includes both special education and other eligible students. This puts a significant extra burden on the city to provide and fund these services when the obligation and authority for reimbursement is from the Federal government.

## **Conclusion**

During the Conference of Mayors Winter Meeting in Washington in January, Chicago Mayor Richard Daley spoke very passionately about his dislike for unfunded mandates. During our January 18 plenary session he told mayors that mandates “force us to replace our own goals with federal priorities. They tie our hand by forcing us to deal with problems the way Washington wants, rather than the way we feel is best to meet our own local needs.”

He called on mayors to join with him in a renewed effort to fight unfunded federal mandates and other federal actions that slip through the cracks of UMRA. He reminded us that state and local governments have many friends in Congress who will go to bat for us on the issue. Mr. Chairman, we’re delighted that you and our other friends in the Senate have committed to hold hearings to focus national attention on this critical issue.

To prepare for hearings later this spring, Mayor Daley has ordered members of his cabinet to begin a formal process of collecting and cataloguing mandates in four categories: unfunded regulatory mandates, under funded mandates, unreasonable grant requirements and federal preemptions. He has asked the Conference of Mayors to assist him in gathering similar data from cities across the nation. I am sure you will be hearing a lot from us as we gather information from cities across the nation.

In closing, Mr. Chairman, we believe we’ve made a lot of progress with UMRA. However, we believe the law needs to be strengthened to capture those mandates that are falling through the cracks and other federal actions that continue to impose huge financial burdens on state and local governments.

Again, thank you for the opportunity to testify. We look forward to working with you and members of the Committee to strengthen UMRA and improve the intergovernmental partnership between the federal, state and local governments.